

CITY ETHICS COMMISSION

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President

Sean Treglia
Vice President

Nedra Jenkins
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Vacant

**CITY OF LOS ANGELES
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**REGULAR MEETING OF THE
LOS ANGELES CITY ETHICS COMMISSION**

**Tuesday, April 14, 2009
9:30 a.m.**

APPROVED

**City Hall, Room 1050 – 10th Floor
200 North Spring Street
Los Angeles, CA 90012**

1. Call to Order.

Commission President Helen Zukin called the meeting to order at 9:34 a.m.

Present: Jenkins, Turner, Treglia, and Zukin.

2. Public Comment

Betty Ann Downing spoke regarding independent expenditures and referred to a letter that she sent to the Ethics Commission. She voiced her concern that the non-candidate expenditures disclosure form currently being used does not contain enough space for the required information. Additionally, she stated that the Ethics Commission should be concerned that its laws pertaining to independent expenditures are unconstitutional and may lead to litigation. Zukin stated that she would like the staff to brief the Commission on this topic in the future and that she would like the City Attorney's office to brief the Commission on the legal ramifications.

3. Approval of draft minutes for the meeting of March 10, 2009.

Commissioner Paul Turner moved to approve the draft minutes of the March 10, 2009 meeting, and Commissioner Nedra Jenkins seconded. The minutes were approved 4-0.

4. Executive Director's report [LeeAnn Pelham].

Executive Director LeeAnn Pelham presented her report and highlighted a recent meeting in Chicago that she was invited to attend on the intersection of private and public sector ethics. The meeting, sponsored by the City of Chicago's Office of Compliance and the World Economic

Forum's *SlimCity* Initiative, focused on topics such as maintaining a solid ethical tone in leadership; accountability; consistency in the application of laws throughout an organization; and other similar issues faced by both the public and private sectors. Pelham also highlighted the budgetary issues facing the commission, and stated that the Mayor's official budget should be released by April 20th. Pelham stated that indications are that the Commission's budget could be cut by as much as thirty percent, which could translate to six layoffs, five of which are filled positions. The layoffs will be effective on July 1st. Turner asked if the working group on Instant Runoff Voting (IRV) can be moved forward so that the work on IRV can be accomplished before the layoffs are effective. Pelham stated that Director of Policy and Legislation Heather Holt will address the IRV issue during her monthly policy and legislation report.

5. Monthly policy and legislation report [*Heather Holt*].

Holt provided a status report on policy items and highlighted the fact that the council file on full public financing is scheduled to expire on May 9. Holt also noted that the next project the policy and legislation division will be working on is a motion from Councilmember Greuel regarding ex parte communications, which will be a nice bridge between the Municipal Lobbying Ordinance (MLO) and a review of the Governmental Ethics Ordinance (GEO).

In regard to Turner's question regarding the IRV working group, Holt stated that it was put together by the City Council, and therefore the Commission has no control over the schedule. Turner stated that everyone agrees that having one election could produce some savings and if the IRV process could be accelerated, perhaps it would alleviate some financial burdens that the City is enduring. Holt stated that the savings would be far down the road after the initial investment in the program was made.

Commissioner Treglia asked about the latest update on Form 52. Holt stated that the Council declined to accept Form 52, and in its place adopted Form 54. That form is currently available for neighborhood councils to use. Jenkins asked if the Education and Neighborhoods Committee had discussed the issue, and Holt stated that they have not taken up this item since the Council adopted Form 54.

Jenkins asked if any action will be taken on the full public financing proposal before the May 8 cutoff. Holt stated that she did not foresee any action being taken. Zukin asked if there was any value in the Commission weighing in on the proposal. Holt stated that the Commission has already made it very clear to Council that this is something that they desire to pursue. She also noted that the City's current financial crisis makes this particularly difficult to pursue at this point. However, the Commission could send another letter to keep the council file open. Jenkins stated that this could be a good time to put the plan in place for the future, despite the economic downturn. Zukin expressed interest in communicating something to the Council. Pelham said that the Council has asked the neighborhood councils to weigh in on what the plan should look like, and they have not done that yet. In addition, the Rules and Government Committee indicated that it was not persuaded by the Commission's approach.

6. Consideration of and action on the following stipulated settlements and/or selection of hearing procedure:

a. In the Matter of: Sean Anderson and Richard Manhire, CEC Case No. 2005-03 [Deena Ghaly & Nilon Seals].

Deputy Executive Director and Director of Enforcement Deena Ghaly presented the item. Ghaly stated that this case involved money laundering. The case was investigated jointly by the Los Angeles County District Attorney's Office, the Federal Bureau of Investigation, and the Secret Service. The proposed stipulation is part of a global agreement that the parties agreed to enter into with the District Attorney's Office and the Commission. The parties pled guilty to violating the state laws, and this stipulation agreement is consistent with how the Commission has treated similar cases in the past. The recommended penalty was three times the amount for which staff found evidence of being unlawfully contributed by the parties. Jenkins asked how it is determined to bar the respondents, for up to four years, from acting as a lobbyist in the City of Los Angeles. She stated that given the magnitude of the violation, it should be the maximum of four years. Ghaly answered that it is outlined in the stipulation that the Commission has discretion over the length of the penalty, up to four years. Turner moved to accept staff's recommendation, and Jenkins seconded. Jenkins stated that she would like to add a friendly amendment to the motion so that it is further clarified that the bar is four years and the Commission is declining to exercise their right to reduce it to a shorter time period. The stipulation was approved 4-0.

b. In the Matter of: Monica Rodriguez and Monica Rodriguez for City Council, CEC Case No. 2008-05 [Deena Ghaly & Nilon Seals].

Ghaly presented this item and highlighted that this matter involves the failure to file a declaration of intent to solicit and receive contributions prior to soliciting and receiving contributions, as well as failure to file scripts related to recorded telephone calls. Ghaly explained that the proposed fine is in keeping with the Commission's general approach of a dollar for dollar fine of the amount unlawfully received, and \$150 dollars per failure to file a script. Jenkins moved to accept staff's recommendation, and Turner seconded. The stipulation was approved 4-0.

c. In the Matter of: Apartment Association of Greater Los Angeles, CEC Case No. 2008-12 [Deena Ghaly & Terra Messina].

Ghaly presented this item and highlighted that this matter involves disclaimer violations for independent expenditure communications. Turner moved to accept staff's recommendation, and Treglia seconded. The stipulation was approved 4-0.

d. In the Matter of: SEIU—Los Angeles Homecare Workers Union Local 434-B State PAC (aka SEIU—United Long Term Care Workers Local 6434 State PAC), CEC Case No. 2008-27 [Deena Ghaly & Terra Messina].

Ghaly presented the item and stated that this case is a disclaimer violation on independent expenditure communications. The respondent failed to include the full committee name on the communications. Zukin asked for an example of “failing to provide their full committee name”. Ghaly stated that it is included in the report. Zukin asked if it was an intentional omission or if it was simply unfamiliarity with the requirements, and Ghaly explained that this is an administrative regulation, and the focus is on whether the regulatory structure that protects the public is being served. She stated that they are not recommending penalties based on the finding of intentionality. Zukin questioned the extent of the omission. Jenkins asked if a representative of the party involved was present, and the PAC’s counsel responded. Investigator Terra Messina read from the report, as an example, of where the party failed to include their full committee name. Respondent’s counsel Steven Kaufman stated that the fine is five hundred dollars on three violations. Ghaly explained that staff wanted it to be easy for the public to track the expenditures in the Commission’s filings, as well as make enforcement consistent so that it is easy for people to follow. Treglia asked if the fine is historically consistent. Ghaly stated that this fine is discounted due to partial compliance, but that the formula is historically consistent. Turner moved to accept staff’s recommendation, and Treglia seconded. The stipulation was approved 4-0.

e. In the Matter of: Southwest Regional Council of Carpenters Political Action Fund, CEC Case No. 2008-28 [Deena Ghaly & Terra Messina].

Ghaly presented the item, and stated that it is a case involving the failure to properly disclose an independent expenditure. She explained that the requirement that asks for the language “not authorized by” is meant to reinforce the regulation that an independent expenditure is not to be coordinated with a candidate, and the party in this case failed to use proper language. Treglia stated his concern about the amount of the fine—if it is merely an administrative fine. Ghaly responded by saying that the fine amount uses a consistent formula that takes into account the fact that some committees get the regulation partially right and some do not disclose at all—it is meant to balance that discrepancy. Zukin questioned how long this matter required staff’s attention. Ghaly stated that the investigation was open from October 2007 to February 2009, but the delay was due to increased workloads. Turner moved to accept staff’s recommendation, and Jenkins seconded. The stipulation was approved 4-0.

f. In the Matter of District Council of Iron Workers Political Action League (aka District Council of Iron Workers PAC), CEC Case No. 2009-04 [Deena Ghaly & Dominic Berbeo].

Ghaly presented the item and noted that it is an independent expenditure disclosure violation that involved the committee not putting the proper language on the communication. Jenkins moved to accept staff’s recommendation, and Turner seconded. The stipulation was approved 4-0.

g. In the Matter of: Steven E. Kiralla, CEC Case No. 2009-06 [Deena Ghaly & Dominic Berbeo].

Zukin asked that Steven Kiralla step forward to participate in the discussion of this case. Ghaly presented the item and noted that this case involved an excess independent expenditure contribution. Kiralla stated that he signed the stipulation even though he thinks that it is unfair and costs too much. He asserted that he made the contribution thinking that it was a legal contribution. Treglia asked if the contributor knew the difference between giving money to a nonprofit organization for a cause and giving money to a political organization. Jenkins stated that she is concerned because Kiralla gave a sworn statement saying that he believed that the organization was to support mayoral and city council candidates in addition to supporting environmental issues outreach, which is inconsistent with his statement before the Commission today. Kiralla stated that he knew that his contribution was going to be distributed to many different candidates, but did not know the regulation on contribution limits. Jenkins asked whether enforcement was being brought against the committee. Ghaly responded that normally in cases like this both sides are investigated. Treglia stated that many people are confused when contributing to political nonprofits, and he does not support the staff's recommendation. Ghaly stated that Kiralla knew that the organization was a political one, but he did not know the contribution limits. Jenkins asked if the Commission's website is clear on the laws and user-friendly. Pelham responded that the regulations are available on our website. Jenkins suggested that staff make the website user-friendly. Investigator Dominic Berbeo stated that in this case the contributor was not under the impression that he was giving to the nonprofit organization, but, rather, giving to the PAC. Zukin asked if the City Attorney's Office had any legal briefing on this topic given the public comment earlier in the meeting. Pelham stated that staff has moved forward on this issue because we believe—due to the facts of the case—it falls within the parameters of the law. Deputy City Attorney Renee Stadel stated that this case raises the same legal concerns that the public commenter brought up today; however, there is no reason why the Commission cannot act on this item today. Jenkins stated that she has a concern that the contributor signed the stipulation under duress due to his statements today. Zukin asked if the Commission saw any reason to hold off on this case and await information from the City Attorney's Office, and the Commission saw none. Kiralla stated that he did not feel pressure from anyone to sign the stipulation, but he didn't have the money or disposition to fight it. Jenkins asked if this was a standard penalty amount, and Ghaly answered that it is consistent with the dollar for dollar formula that has been used in the past. Treglia made a motion to reduce the fine to five hundred dollars. The motion failed as it was not seconded. Jenkins moved to accept staff's recommendation, and Turner seconded. The stipulation was approved 3-1.

h. Request for Selection of Hearing Procedure In the Matter of: Engineers and Architects Association Civic Betterment Association, CEC Case No. 2008-21 [Deena Ghaly & Dominic Berbeo].

Ghaly presented the item and noted that this item is a request for a hearing procedure. A representative for the Engineers and Architects Association was present at the meeting and stated that his client would like to go to a hearing. Turner moved to submit this to an outside hearing officer to hear the case, make a report, and file a recommendation for decision by the Commission, and Jenkins seconded. The motion was approved 4-0.

7. Quarterly activity report by enforcement division [Deena Ghaly].

Ghaly presented the quarterly report and highlighted the status of the whistleblower program and the timeliness of the active cases within the last quarter. Treglia asked for an explanation of the recent increase in whistleblower complaints. Ghaly stated that some of the increase could be due to the most recent election and to frequent complaints from a small number of individuals regarding matters outside the Commission's jurisdiction. Turner asked why only four percent of the whistleblower complaints concern campaign finance issues. Ghaly responded by saying that most of campaign finance cases come from audits and not whistleblower complaints.

Commissioner Treglia announced his recusal from item nine and left the Commission meeting.

8. Consideration of and action on statements of economic interests for commission and department head SEI reviews [*Shannon Prior*].

Program Analyst Shannon Prior recommended that the Commission approve cautionary letters for nominees Ms. Ruthanne Secunda, Mr. John Kim, Mr. Javier Lujan, and Mr. Thomas M. Donovan. Prior recommended that the Commission approve standard letters for nominee Dr. Marsha Hirano-Nakanishi. Treglia moved to accept the recommendation, and Jenkins seconded. The letters were approved 4-0.

9. Discussion and possible action on proposed changes to the Municipal Lobbying Ordinance [*Heather Holt*].

The Commission began this item with public comment. Veronica Perez-Becker from the Central City Association of Los Angeles stated that her organization opposes a private right of action. James Sutton from the Los Angeles Lobbying Association voiced his concerns about the proposals on fundraising disclosure and enforcement. He also stated that the proposal to require treble fines should only be used in the most egregious circumstances. Jenkins agreed, and Holt noted that treble fines are a cap, not a requirement, and that the Commission has adopted the practice of imposing them only for the most egregious offenses. Jeff McConnell, a registered lobbyist in the City of Los Angeles, expressed his concerns with the proposed fundraising requirements.

Several business improvement districts (BIDs) were also represented in public comment. Kerry Morrison, the Executive Director of the Hollywood Property Owners Alliance and the manager of two BIDs, stated that she does not view her organization as a lobbying organization but as one that provides City services. She said that she is in constant contact with the City but that everything she does is transparent. Russell Brown from the Historic Downtown BID stated that the City is not providing services in his district, so his BID is subsidizing these services. As a result, Brown does not think the BID should be considered a lobbying organization. Jenkins noted that the Commission had already added an exemption to the proposal, to accommodate other comments received from BIDs. She also suggested that the BIDs meet with Holt to discuss this exemption and their concerns. Brown suggested that the Los Angeles BID Consortium discuss the issues with Holt. Estella Lopez, the executive director of the Central City East Association, concurred that the BIDs need to continue the dialogue with the staff.

Holt presented the staff recommendations regarding fundraising, enforcement, and the remaining MLO issues. The Commission reached consensus on all of the items presented. However, the Commission amended four proposals: 1) They determined that lobbyists should not be required to identify specific clients from whom they solicit contributions. Instead, lobbyists should be required to identify whether they solicited one or more clients generally. 2) They determined that the deadline for filing a fundraising solicitation should be extended to five business days after the date the solicitation is first distributed. 3) They determined that lobbying entities should be required to disclose fundraising activity conducted on behalf of City ballot measure committees that are not controlled by City officers or candidates. 4) They determined that the right to bring a civil action for violations of the MLO should extend to the Commission but not to private citizens.

10. Announcements and requests to schedule items on future agendas.

There were no announcements or requests to schedule items on future agendas.

11. Closed session for public employee performance evaluation of the executive director, pursuant to California Government Code § 54957.

The Commission entered closed session in connection with the annual performance review of the executive director. After concluding a brief closed session, the Commission then reconvened its meeting in open session and announced that no action had been taken in closed session. Zukin stated that the item would be continued to the May meeting.

12. Adjournment.

The meeting was adjourned at 12:38 p.m.